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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO:	CONFIRMATION NO.
10/611,967	07/03/2003	Hideki Kado	VXO32535	3630
21369	7590	10/01/2004	EXAMINER	
VARNDELL & VARNDELL, PLLC 106-A S. COLUMBUS ST. ALEXANDRIA, VA 22314			KERSHTEYN, IGOR	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,967

Applicant(s)

KADO ET AL.

Examiner

Igor Kershteyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/03/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds the range of 150 words and contains the legal phraseology "means". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamma et al. (4,075,841).

In figure 8, Hamma et al. teach a forward/backward switching control apparatus for a hydraulic drive vehicle, comprising: a variable displacement type hydraulic pump

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(not shown) driven by an engine 90 for discharging pressure oil selectively in two directions; an electromagnetic pump inclination angle control mechanism 77 for making the discharge displacement of the variable displacement type hydraulic pump variable and for causing the same to discharge selectively in the two directions; electric operating means 89 for outputting signals to run the hydraulic drive vehicle forward or backward; and control means 81,82a,82b,83a,83b,84a,84b,86a,86b,87 for outputting, when the electric operating means 89 is switched either from the forward position through the neutral position to the backward position or from the backward position through the neutral position to the forward position to output the forward signal or the backward signal and when the time for switching to the forward signal or the backward signal is not longer than a preset time, a first modulate signal for delaying the return times from the forward position to the neutral position and from the backward position to the neutral position, to the electromagnetic pump inclination angle control mechanism 77, further comprising control means 80,81 for outputting the return time by the first modulate signal variably in accordance with an engine rotation speed (See column 7, lines 33-34).

Allowable Subject Matter

Claims 3-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of four patents.

Hamma (4,188,789) is cited to show a forward/backward switching control apparatus for a hydraulic drive vehicle, comprising: a variable displacement type hydraulic pump driven by an engine for discharging pressure oil selectively in two directions but fails to teach an electromagnetic pump inclination angle control mechanism, electric operating means, and a control means for outputting a modulate signal for delaying the neutral return time.

Fulkerson et al. (4,355,509) is cited to show a forward/backward switching control apparatus for a hydraulic drive vehicle, comprising: a variable displacement type hydraulic pump driven by an engine for discharging pressure oil selectively in two directions, an electromagnetic pump inclination angle control mechanism a but fails to teach electric operating means, and control means for outputting a modulate signal for delaying the neutral return time.

Schneiderjan et al. (5,184,466) is cited to show a forward/backward switching control apparatus for a hydraulic drive vehicle, comprising: a variable displacement type hydraulic pump driven by an engine for discharging pressure oil selectively in two directions, an electromagnetic pump inclination angle control mechanism, and electric operating means but fails to teach a control means for outputting a modulate signal for delaying the neutral return time.

Kuras et al. (6,385,970) is cited to show a forward/backward switching control apparatus for a hydraulic drive vehicle, comprising: a variable displacement type hydraulic pump driven by an engine for discharging pressure oil selectively in two directions, an electromagnetic pump inclination angle control mechanism, and electric operating means but fails to teach a control means for outputting a modulate signal for delaying the neutral return time.

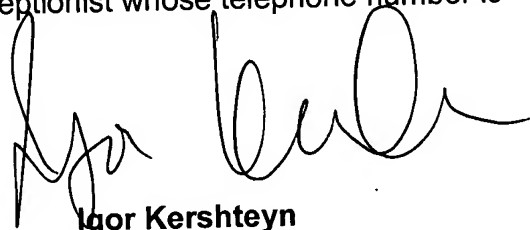
Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is (703) 308 8317. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on (703) 308 1044. The fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK
September 27, 2004



Igor Kershteyn
Patent examiner.
Art Unit 3745



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

9/29/04